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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,783	07/23/2003	Thomas DeRossett JR.	DRV/00106	8187
24350	7590	09/22/2005	EXAMINER	
STITES & HARBISON, PLLC 400 W MARKET ST SUITE 1800 LOUISVILLE, KY 40202-3352			ELVE, MARIA ALEXANDRA	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,783

Applicant(s)

DEROSSETT ET AL.

Examiner

M. Alexandra Elve

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/4/05, 12/4/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Drouillard et al. (US Pat. 5,897,797).

Drouillard et al. discloses a laser marking system, which etches the product surface. The marking system has a main housing (90) which has an articulated arm (94) and conduit assembly (92) extending therefrom. A remote scanning head (50) is affixed at the end of the articulated arm. The articulated arm and conduit are a flexible link for the transfer to the laser beam between the main cabinet and the remote scanning head. The flexible conduit carries power, control cabling and an air line. At the end of the articulated arm the head input lens adjuster is provided which allows the user to vary the spot size of the laser beam on the product. Within the remote scanning head is a laser beam scanning mechanism, a rotating polygon, and a detector system, which is used to synchronize the signals for, feed back to the control electronics of the laser system. An adjustable output lens system is provided on the end of the remote scanning head, which allows the user to vary characters on the product. The computer is provided in the main housing with a keypad for inputting desired data.

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The laser beam is reflected off the rotating polygon and then hits the galvo mirror, which directs the laser beam horizontally across the product. The rotating polygon only directs the laser beam in the y-axis while the galvo mirror only directs the beam in the x-axis plane. With this combination the laser beam can generate many types of marks. The closer the rotating polygon is to the galvo mirror the smaller and more focused the beam is on the product.

Additionally, the product is put into a cup type holder and a vacuum is applied in order to hold product, remove debris and ensure that the product is in close position to the laser before marking commences.

The system has a safety interlock that is a microswitch, which is mounted on a protective shield above the remote scanning head and the product.

(abstract, figures, col. 9, lines 13-57, col. 10, lines 1-5, 64-67, col. 11, lines 1-20, 48-67, col. 12, lines 1-15)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drouillard et al. as stated above and further in view of the following.

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Drouillard et al. teaches: the laser beam is reflected off the rotating polygon and then hits the galvo mirror, which directs the laser beam horizontally across the product. The rotating polygon only directs the laser beam in the y-axis while the galvo mirror only directs the beam in the x-axis plane. With this combination the laser beam can generate many types of marks. Although a polygon and mirror is used to align the marks a mirror could be used for both of these.

It would have been obvious to one of ordinary skill in the art to use only mirrors because the polygon and mirror are held as functional equivalents.

In addition the types of materials chosen are a choice in design and substitution of a known equivalent structure may be made. In re Kuhle 188 USPQ (CCPA 1975), In re Ruff 118 USPQ 343 (CCPA 1958).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See US PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 5, 2005.

A handwritten signature in black ink, appearing to read 'MAE', is positioned above the printed name.

**M. ALEXANDRA ELVE
PRIMARY EXAMINER**